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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/022,019	12/14/2001	Timothy Glyn Hankins	52308-1071	4883
24504	7590	12/04/2003	EXAMINER	
THOMAS, KAYDEN, HORSTEMEYER & RISLEY, LLP 100 GALLERIA PARKWAY, NW STE 1750 ATLANTA, GA 30339-5948			ST CYR, DANIEL	
		ART UNIT	PAPER NUMBER	
			2876	

DATE MAILED: 12/04/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/022,019	HANKINS, TIMOTHY GLYN
	Examiner Daniel St.Cyr	Art Unit 2876

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 12 September 2003.

2a) This action is FINAL.                            2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 4-15 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 4-15 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. §§ 119 and 120

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some \* c) None of:

    1. Certified copies of the priority documents have been received.

    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.

    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

13) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

    a) The translation of the foreign language provisional application has been received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

#### Attachment(s)

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.

4) Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_.

5) Notice of Informal Patent Application (PTO-152)

6) Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 9/12/03 has been entered.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 4 and 6-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Scroggie et al, US Patent No. 6,014,634, in view of Durst et al, US Patent No. 6,542,933.

Scroggie et al disclose a system and method for providing shopping aids and incentives to customers through a computer network comprising: a processing unit a product or service (shopping list index, offer browser, recipe index, etc.) database, selection means for selecting a particular product or service listed in the database, said processing including database management means operable to generate a sub-database specific to each user using the system and remote user means operable by a user for identifying a product or service of one or more predetermined user preferences, the remote user means including transmitting means operable to transmit the product or service identifier and the user identifier to the processing unit for

processing therein, wherein substantially all the processing of data is carried out in the processing unit (see col. 6, line 5+ and col. 14, line 2+).

Scroggie et al fail to disclose or fairly suggest that the remote user device is portable.

Durst et al disclose a system and method of using machine readable or human readable linkage codes for accessing network data resources comprising: a client computer 20, wherein the computer may be any type of computing device capable of accessing the network 16 such as a personal computer, a web-enabled cell phone, PDA. The client computer 20 is configured to execute web browser software 24 and linkage client software 22. The client computer 20 also includes data entry devices such as a keyboard 21, a bar code scanning wand 23, and a mouse 25 for entry of the linkage codes 11 as desired (see col. 5, line 22+).

In view of Durst et al's teachings, it would have been obvious for a person of ordinary skill in the art at the time the invention was made to employ portable devices (i.e. portable user computer, scanner, etc.) for communicating information within the system. Such modification would make the system more convenient and more users friendly by allowing the users to utilize their device while traveling or just allow users mobility and flexibility. Therefore, it would have an obvious extension as taught by Scroggie et al.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Shepley, US Patent No. 5,478,989, cited by the applicant, in view of Scroggie et al as modified by Durst et al. The teachings of Scroggie et al as modified by Durst et al have been discussed above.

Shepley discloses nutritional information system for shoppers comprising: means 18 for advising a user in selecting a product, including means (bar code) for identifying a product, and transmitting means (communication from the cart to central system) to a remote system processing unit the product and to the user of the portable device. (see figures 1, 2, and col. 6, lines 14-59).

Shepley fails to disclose or fairly suggest generating a temporary sub-database.

Scroggie et al disclose generating a sub-database (see above).

In view of Scroggie et al as modified by Durst et al, it would have been obvious for an artisan at the time the invention was made to generate a temporary sub-database for each customer when visiting the shopping store. Such modification would allow more direct targeting of each customer by providing more information specific to each individual customer, which would make the system more effective. Therefore, it would have been an obvious extension as taught by Shepley.

#### ***Response to Arguments***

6. Applicant's arguments with respect to claims 4-15 have been considered but are moot in view of the new ground(s) of rejection.

#### ***Conclusion***

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel St.Cyr whose telephone number is 703-305-2656. The examiner can normally be reached on Mon-Fri.

Application/Control Number: 10/022,019  
Art Unit: 2876

Page 5

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G Lee can be reached on 703-305-3503. The fax phone number for the organization where this application or proceeding is assigned is 703-308-7721.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0956.

Daniel St.Cyr  
Primary Examiner  
Art Unit 2876

DS  
November 15, 2003

A handwritten signature in black ink, appearing to read "Daniel St.Cyr", is written over a horizontal line. Below the signature is a large, roughly circular, hand-drawn oval.